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UNITED STATES
DEPARTMENT OF AGRICULTURE



Supplement No. 1 to
**FEDERAL
LEGISLATION AND REGULATIONS**
RELATING TO
HIGHWAY CONSTRUCTION

UNDER THE NATIONAL INDUSTRIAL RECOVERY ACT
FEDERAL AID AND NATIONAL FOREST ROADS
FLOOD RELIEF AND MISCELLANEOUS
MATTERS

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, D.C.

July 1934

SUPPLEMENT No. 1 TO FEDERAL LEGISLATION AND
REGULATIONS RELATING TO HIGHWAY CONSTRUCTION

UNDER THE NATIONAL INDUSTRIAL RECOVERY ACT, FEDERAL AID
AND NATIONAL FOREST ROADS, FLOOD RELIEF AND
MISCELLANEOUS MATTERS

Compiled by the Bureau of Public Roads

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AMENDMENT TO EMERGENCY RELIEF AND CONSTRUCTION ACT
OF 1932

[PUBLIC—No. 93—73D CONGRESS]

[H.R. 7527]

AN ACT

Making an additional appropriation to carry out the purposes of the Federal Emergency Relief Act of 1933, for continuation of the Civil Works program, and for other purposes

* * * * *

SEC. 2. That paragraph (1) of subsection (a) of section 301 of title III of Public Law Numbered 302, Seventy-second Congress, approved July 21, 1932—the Emergency Relief and Construction Act of 1932—is amended by striking out the date “July 1, 1933” where it appears in said paragraph and inserting in lieu thereof the date “September 1, 1934.”

Approved, February 15, 1934.

APPROPRIATION ACT OF MARCH 26, 1934

[PUBLIC—No. 131—73D CONGRESS]

[H.R. 8134]

AN ACT

Making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1935, and for other purposes

TITLE I—DEPARTMENT OF AGRICULTURE

* * * * *

FEDERAL-AID HIGHWAY SYSTEM

For carrying out the provisions of the Act entitled “An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes”, approved July 11, 1916 (39 Stat., pp. 355–359),

and all Acts amendatory thereof and supplementary thereto, to be expended in accordance with the provisions of said Act, as amended, including not to exceed \$176,400 for departmental personal services in the District of Columbia, \$8,000,000, to be immediately available and to remain available until expended, which sum is a part of the sum of \$125,000,000 authorized to be appropriated for the fiscal year ending June 30, 1933, by section 1 of the Act approved April 4, 1930 (46 Stat., p. 141): *Provided*, That none of the money herein appropriated shall be paid to any State on account of any project on which convict labor shall be employed, except this provision shall not apply to convict labor performed by convicts on parole or probation: *Provided further*, That not to exceed \$45,000 of the funds provided for carrying out the provisions of the Federal Highway Act of November 9, 1921 (U.S.C., title 23, secs. 21 and 23), shall be available for the purchase of motor-propelled passenger-carrying vehicles necessary for carrying out the provisions of said Act, including the replacement of not to exceed one such vehicle for use in the administrative work of the Bureau of Public Roads in the District of Columbia: *Provided further*, That, during the fiscal year 1935, whenever performing authorized engineering or other services in connection with the survey, construction and maintenance, or improvement of roads for other Government agencies the charge for such services may include depreciation on engineering and road-building equipment used, and the amounts received on account of such charges shall be credited to the appropriation concerned.

The appropriation of \$2,000,000 for roads on unappropriated or unreserved public lands, nontaxable Indian lands, and so forth, contained in the Act entitled "An act to relieve destitution, to broaden the lending powers of the Reconstruction Finance Corporation, and to create employment by providing for and expediting a public-works program", approved July 21, 1932, is hereby continued available during the fiscal year 1935, and not to exceed \$4,290 may be used for personal services in the District of Columbia.

Total, Bureau of Public Roads, \$8,000,000.

* * * * *

FOREST ROADS AND TRAILS

For carrying out the provisions of section 23 of the Federal Highway Act approved November 9, 1921 (U.S.C., title 23, sec. 23), including not to exceed \$10,521 for departmental personal services in the District of Columbia, \$1,500,000, a part of the amount authorized to be appropriated for the fiscal year 1933 by the Act approved May 5, 1930: *Provided*, That this appropriation shall be available for the rental, purchase, or construction of buildings necessary for the storage of equipment and supplies used for road and trail construction and maintenance, but the total cost of any such building purchased or constructed under this authorization shall not exceed \$2,500: *Provided further*, That during the fiscal year ending June 30, 1935, the expenditures on forest highways in Alaska from the amount herein appropriated or from similar appropriations heretofore made shall not exceed \$350,000.

* * * * *

Approved March 26, 1934.

THE HAYDEN-CARTWRIGHT ACT

[PUBLIC—No. 393—73D CONGRESS]

[H.R. 8781]

AN ACT

To increase employment by authorizing an appropriation to provide for emergency construction of public highways and related projects, and to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of increasing employment by providing for emergency construction of public highways and other related projects there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000,

which shall be apportioned by the Secretary of Agriculture immediately upon the passage of this Act under the provisions of section 204 of the National Industrial Recovery Act, approved June 16, 1933 (in addition to any sums heretofore allocated under such section), in making grants under said section to the several States to be expended by their highway departments pursuant to the provisions of such section, and to remain available until expended: *Provided*, That the Secretary of Agriculture shall act upon projects submitted to him under his apportionment of this authorization, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto: *Provided further*, That not less than 25 per centum of the apportionment to any State shall be applied to secondary or feeder roads, including farm to market roads, rural free delivery mail roads, and public-school bus routes, except that the Secretary of Agriculture, upon request and satisfactory showing from the highway department of any State, may fix a less percentage of the apportionment of such State for expenditure on secondary or feeder roads: *And provided further*, That any funds allocated under the provisions of section 204 (a) (2) of such Act shall also be available for the cost of any construction that will provide safer traffic facilities or definitely eliminate existing hazards to pedestrian or vehicular traffic.

SEC. 2. To further increase employment by providing for emergency construction of public highways and other related projects, there is hereby also authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$24,000,000 for allotment under the provisions of section 205 (a) of the National Industrial Recovery Act, approved June 16, 1933 (in addition to any sums heretofore allotted under such section), to be expended for the survey, construction, reconstruction, and maintenance of highways, roads, trails, bridges, and related projects in national parks and monuments (including areas transferred to the National Park Service for administration by Executive order dated June 10, 1933), national forests, Indian reservations, and public lands, pursuant to the provisions of such section, and to remain available until expended.

SEC. 3. Not to exceed \$10,000,000 of any money heretofore, herein, or hereafter appropriated for expenditure in accordance with the provisions of the Federal Highway Act shall be available for expenditure by the Secretary of Agriculture, in accordance with the provisions of the Federal Highway Act, as an emergency relief fund, after receipt of an application therefor from the highway department of any State, in the repair or reconstruction of highways and bridges on the system of Federal-aid highways, which he finds, after investigation, have been damaged or destroyed by floods, hurricanes, earthquakes, or landslides, and there is hereby authorized to be appropriated any sum or sums necessary to reimburse the funds so expended from time to time under the authority of this section.

SEC. 4. For the purpose of carrying out the provisions of the Act entitled "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes", approved July 11, 1916, and all Acts amendatory thereof and supplementary thereto, there is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, the following sums, to be expended according to the provisions of such Act as amended: The sum of \$125,000,000 for the fiscal year ending June 30, 1936, and the sum of \$125,000,000 for the fiscal year ending June 30, 1937.

All sums authorized in this section and apportioned to the States shall be available for expenditure for one year after the close of the fiscal year for which said sums, respectively, are authorized, and any sum remaining unexpended at the end of the period during which it is available for expenditure shall be reapportioned among the States as provided in section 21 of the Federal Highway Act.

SEC. 5. For the purpose of carrying out the provisions of section 23 of the Federal Highway Act, approved November 9, 1921, there is hereby authorized to be appropriated for forest highways, roads, and trails, the following sums, to be available until expended in accordance with the provisions of said section 23: The sum of \$10,000,000 for the fiscal year ending June 30, 1936; the sum of \$10,000,000 for the fiscal year ending June 30, 1937.

SEC. 6. For the purpose of carrying out the provisions of section 3 of the Federal Highway Act, approved November 9, 1921, as amended June 24, 1930 (46 Stat. 805), there is hereby authorized to be appropriated for the survey,

construction, reconstruction, and maintenance of main roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations other than the forest reservations, the sum of \$2,500,000 for the fiscal year ending June 30, 1936, and the sum of \$2,500,000 for the fiscal year ending June 30, 1937, to remain available until expended.

SEC. 7. For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges, in the national parks, monuments, and other areas administered by the National Park Service, including areas authorized to be established as national parks and monuments, and national park and monument approach roads authorized by the Act of January 31, 1931 (46 Stat. 1053), as amended, there is hereby authorized to be appropriated the sum of \$7,500,000 for the fiscal year ending June 30, 1936, and the sum of \$7,500,000 for the fiscal year ending June 30, 1937.

SEC. 8. For construction and improvement of Indian reservation roads under the provisions of the Act approved May 26, 1928 (45 Stat. 750), there is hereby authorized to be appropriated the sum of \$4,000,000 for the fiscal year ending June 30, 1936, and the sum of \$4,000,000 for the fiscal year ending June 30, 1937.

SEC. 9. The term "highway" as defined in the Federal Highway Act, approved November 9, 1921, as amended and supplemented, shall for the period covered by this Act be deemed to include such main parkways as may be designated by the State and approved by the Secretary of Agriculture as part of the Federal-aid highway system.

SEC. 10. Section 19 of the Federal Highway Act, approved November 9, 1921, is hereby amended to read as follows:

"SEC. 19. That on or before the first Monday in January of each year the Secretary of Agriculture shall make a report to Congress, which shall include a detailed statement of the work done, the status of each project undertaken, the allocation of appropriations, an itemized statement of the expenditures and receipts during the preceding fiscal year under this Act, an itemized statement of the traveling and other expenses, including a list of employees, their duties, salaries, and traveling expenses, if any, and his recommendations, if any, for new legislation amending or supplementing this Act. The Secretary of Agriculture shall also make such special reports as Congress may request."

SEC. 11. With the approval of the Secretary of Agriculture, not to exceed 1½ per centum of the amount apportioned for any year to any State under sections 1 and 4 of this Act may be used for surveys, plans, and engineering investigations of projects for future construction in such State, either on the Federal-aid highway system and extensions thereof or on secondary or feeder roads.

SEC. 12. Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Agriculture shall promulgate from time to time: *Provided*, That in no case shall the provisions of this section operate to deprive any State of more than one-third of the amount to which that State would be entitled under any apportionment hereafter made, for the fiscal year for which the apportionment is made.

SEC. 13. The limitations in the Federal Highway Act, approved November 9, 1921, as amended and supplemented, upon highway construction, reconstruction, and bridges within municipalities and upon payments per mile which may be made from Federal funds, shall hereafter not apply.

SEC. 14. No deductions shall hereafter be made on account of prior advances and/or loans to the States for the construction of roads under the requirements of the Federal Highway Act or on account of amounts paid under the provisions of title I of the Emergency Relief and Construction Act of 1932 for furnishing relief and work relief to needy and distressed people.

SEC. 15. To provide for the continuation of the cooperative reconnaissance surveys for a proposed inter-American highway as provided in Public Resolution Numbered 104, approved March 4, 1929 (45 Stat. 1697), and for making location surveys, plans, and estimates for such highway, the Secretary of Agriculture is hereby authorized to expend not more than \$75,000 to pay all costs hereafter incurred for such work from any moneys available from the administrative funds provided under the Act of July 11, 1916 (U.S.C., title 23, sec. 21), as amended, or as otherwise provided.

SEC. 16. Acts or parts of Acts in any way inconsistent with the provisions of this Act are hereby repealed and this Act shall take effect on its passage.

Approved, June 18, 1934.

EMERGENCY APPROPRIATION ACT, FISCAL YEAR 1935

[PUBLIC—No. 412—73D CONGRESS]

[H.R. 9830]

AN ACT

Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1934, and prior fiscal years, to provide supplemental general and emergency appropriations for the fiscal years ending June 30, 1934, and June 30, 1935, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1934, and prior fiscal years, to provide supplemental general and emergency appropriations for the fiscal years ending June 30, 1934, and June 30, 1935, and for other purposes, namely:

DEPARTMENT OF AGRICULTURE

MISCELLANEOUS EXPENSES

* * * * *

BUREAU OF PUBLIC ROADS

For the construction of roads within the grounds of the Thomas Jefferson Memorial Foundation at Monticello, near Charlottesville, Virginia, fiscal year 1935, \$30,000.

* * * * *

DEPARTMENT OF STATE

* * * * *

Inter-American Highway: To meet such expenses as the President in his discretion may deem necessary to enable the United States to cooperate with the several Governments, members of the Pan American Union, in connection with the survey and construction of the proposed Inter-American Highway, \$1,000,000, to remain available until expended. The expenditure of such sum shall be subject to the receipt of assurances satisfactory to the President from such governments of their cooperation in such survey and construction.

TITLE II—EMERGENCY APPROPRIATIONS

* * * * *

DEPARTMENT OF AGRICULTURE

For the purpose of increasing employment by providing for emergency construction of public highways and other related projects, fiscal year 1935, \$100,000,000, to remain available until expended, which sum shall be apportioned by the Secretary of Agriculture immediately upon the enactment of this Act

under the provisions of section 204 of the National Industrial Recovery Act, approved June 16, 1933 (in addition to any sums heretofore allocated under such section), to the highway departments of the several States to be expended by such departments pursuant to the provisions of such section, and which sum is a part of the \$200,000,000 authorized to be appropriated by section 1 of the Act entitled "An Act to increase employment by authorizing an appropriation to provide for emergency construction of public highways and related projects, and to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes", approved June 18, 1934.

For the purpose of carrying out the provisions of section 23 of the Federal Highway Act, approved November 9, 1921, fiscal year 1935, \$10,000,000 to remain available until expended in accordance with the provisions of such section 23.

For the purpose of carrying out the provisions of section 3 of the Federal Highway Act, approved November 9, 1921, as amended June 24, 1930 (46 Stat. 805), for the survey, construction, reconstruction, and maintenance of roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations other than the forest reservations, fiscal year 1935, \$2,500,000; to remain available until expended.

DEPARTMENT OF THE INTERIOR

For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges in the national parks, monuments, and other areas administered by the National Park Service, including areas authorized to be established as national parks and monuments, and national park and monument approach roads authorized by the Act of January 31, 1931 (46 Stat. 1053), as amended, fiscal year 1935, \$5,000,000, to remain available until expended.

For the construction and improvement of Indian reservation roads under the provisions of the Act approved May 26, 1928 (45 Stat. 750), fiscal year 1935, \$2,000,000 to remain available until expended: *Provided*, That the location, type, and design of all roads and bridges shall be approved by the Bureau of Public Roads before any expenditures are made thereon, and all such construction done by contract shall be under the general supervision of said Bureau.

Road and bridge flood relief, State of Alabama: The unexpended balance of the appropriations contained in the First Deficiency Act, fiscal year 1930, for carrying out the provisions of the Act entitled "An Act for the relief of the State of Alabama for damages to and destruction of roads and bridges by floods in 1929", approved March 12, 1930, shall remain available until June 30, 1935.

* * * * *

SEC. 2. This title may be cited as the "Emergency Appropriation Act, fiscal year 1935."

Approved, June 19, 1934.

AMENDMENT TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE FEDERAL HIGHWAY ACT

[Section 3 of regulation 9 as amended Oct. 5, 1933]

SEC. 3. No part of the money apportioned under the act shall be used, directly or indirectly, to pay or to reimburse a State, county, or local subdivision for the payment of any premium or royalty on any patented or proprietary material, specification, or process for a distinctive type of construction unless purchased or obtained on open actual competitive bidding at the same or a less cost than unpatented articles or methods, if any, equally suitable for the same purpose, provided, however, that patented or proprietary articles or methods of reasonable cost which constitute minor elements of a contract item may be specified and paid for, in the discretion of the Bureau of Public Roads, if purchased in competition with one or more equally suitable patented or proprietary articles or methods or if information is included in the advertisement stating the price at which such patented or proprietary articles or methods are available to all contractors. Manufactured, patented, or proprietary articles which constitute a major part of the cost of a contract item may be specified and paid for if com-

petition is assured with nonpatented or nonproprietary articles or between two or more manufactured, patented, or proprietary articles accepted as equally suitable for the same purpose. Nothing in this section shall be construed as a prohibition against the use of any patented or proprietary material, specification, or process for a distinctive type of construction on relatively short sections of road for experimental purposes.

AMENDMENT TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR ADMINISTERING FOREST ROADS AND TRAILS UNDER THE PROVISIONS OF THE FEDERAL HIGHWAY ACT

[Section 2 of regulation 6 as amended Apr. 27, 1934]

SECTION 2. A location, survey, and estimate of cost of major projects included in the forest-highway and forest-development programs, under allotments set up as provided in regulation 7, shall be made by the Bureau as soon as practicable. Roads that ultimately may become a part of the forest-highway system may be programmed for location, survey, and estimate of cost in the same manner as forest highways are now programmed for location survey.

RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF TITLE II—PUBLIC WORKS AND CONSTRUCTION PROJECTS—NATIONAL INDUSTRIAL RECOVERY ACT AND THE ACT OF JUNE 18, 1934 (H.R. 8781) FOR CONSTRUCTING HIGHWAYS AND RELATED PROJECTS IN ACCORDANCE WITH PROVISIONS OF THE FEDERAL HIGHWAY ACT

[Approved by the Secretary of Agriculture July 7, 1934, and by the Special Board for Public Works July 13, 1934]

DEFINITIONS

SECTION 1. For the purposes of these rules and regulations, the following definitions shall be controlling:

The term "Act" shall mean those provisions of title II—Public Works and Construction Projects—of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and the amendatory or supplementary act of June 18, 1934 (H.R. 8781), which provide for the emergency construction of public highways and related projects in accordance with the provisions of the Federal Highway Act.

The term "State" as used herein shall include the Territory of Hawaii and the District of Columbia.

The term "Secretary" shall mean the Secretary of Agriculture of the United States.

The term "public works highway funds" shall mean the \$400,000,000 of Federal funds authorized by section 204 of the act of June 16, 1933 (48 Stat. 200), and the \$200,000,000 authorized by section 1 of the act of June 18, 1934 (H.R. 8781), and apportioned to the several State highway departments for the construction of public highways and related projects on the Federal-aid highway system and on extensions thereof into and through municipalities and on secondary or feeder roads, in accordance with the provisions of the Federal Highway Act. Projects located on the Federal-aid highway systems outside of municipalities involving the use of such funds shall be designated "U.S. Public Works Highway Project No. N.R.H. ——" Projects located on extensions of the Federal-aid highway system into and through municipalities involving the use of such funds shall be designated "U.S. Public Works Highway Project No. N.R.M. ——" Projects located on secondary or feeder roads involving the use of such funds shall be designated "U.S. Public Works Highway Project No. N.R.S. ——" Signs displayed on any such project for the purpose of its identification by firms or individuals to whom any contract for its construction is awarded shall refer to the project by the appropriate foregoing designation.

The term "apportionment" refers to the amounts which have been placed to the credit of the individual States by the Secretary's certificates of apportionment of June 23, 1933, and June 19, 1934, which certificates are hereby made a part of these rules and regulations.

"Secondary or feeder roads" shall include farm-to-market roads, rural-free-delivery roads, and public-school-bus routes, and shall be defined as roads which are not now included in the approved system of Federal-aid highways but which are either part of the State highway system or are important local highways leading to shipping points, or which will permit the coordination or extension of existing transportation facilities, including highway, rail, air, and water.

INITIATION OF PROJECTS

SEC. 2. All projects under this act shall be initiated by the States and submitted in the same manner as other Federal-aid projects, and all such projects shall be subject to all provisions of the rules and regulations of the Secretary of Agriculture for administering the Federal Highway Act, as heretofore promulgated, except such provisions as are in conflict with these rules and regulations.

APPLICATION OF FUNDS TO PROJECTS

SEC. 3. (a) Of the funds apportioned to any State under said act of June 16, 1933, not more than 50 percent shall be applied to projects on the Federal-aid highway system outside of the corporate limits of municipalities; not less than 25 percent of such funds shall be applied to projects on extensions of the Federal-aid highway system into and through municipalities; and not more than 25 percent of such funds shall be applied to secondary or feeder roads until provision has been made for the satisfactory completion of at least 90 percent of the initial limiting Federal-aid highway system in such State. Upon a proper showing by any State that either all needed improvements on extensions of the Federal-aid highway system into and through municipalities can be completed with an expenditure less than 25 percent of the State's apportionment, or that municipal authorities are unable or unwilling to obtain the necessary rights-of-way for needed improvements, or for other reasons, the Secretary may revise the above percentages with reference to such State.

(b) Of the funds apportioned to any State under said act of June 18, 1934, not more than 50 percent shall be applied to projects on the Federal-aid highway system outside of the corporate limits of municipalities; not less than 25 percent of such funds shall be applied to projects on extensions of the Federal-aid highway system into and through municipalities; and not less than 25 percent of such funds shall be applied to secondary or feeder roads. In States where the mileage of the State highway system is a small percentage of the total highway mileage of the State, the improvement of secondary or feeder roads shall not be confined entirely to the designated State highway system. In States where unimproved or inadequate sections exist on principal routes of highway travel which are on the Federal-aid highway system the Secretary, upon request and a satisfactory showing of such condition by the State highway department concerned, or for other reasons satisfactory to him, may approve a less percentage of the apportionment of such State for expenditure on secondary or feeder roads, with a corresponding increase in the percentage for expenditure on the Federal-aid highway system. Any such request filed by a State highway department shall be supported by the following:

(1) A statement of the status of Federal-aid system as to types of improvement. This statement shall include a showing as to the percentage of the system that is improved to a standard consistent with the lowest average maintenance costs under existing and immediately prospective traffic.

(2) A statement of the status of improvement of the roads on the State system which are not on the Federal-aid system, together with the annual expenditures thereon now being made for new construction and for maintenance.

(3) A statement of the status of local roads under the jurisdiction of local bodies, together with the amount of funds from State and all other taxes, including gasoline, oil, and motor-vehicle fees, placed under the jurisdiction of local authorities for expenditure on roads.

Upon a proper showing by any State that, either all needed improvements on extensions of the Federal-aid highway system into and through municipalities can be completed with an expenditure less than 25 percent of the State's apportionment, or that municipal authorities are unable or unwilling to obtain the necessary rights-of-way for needed improvement, or for other reasons satisfactory to him, the Secretary may revise the above percentage for use within municipalities with reference to such State.

(c) The reconstruction of existing facilities which, in the opinion of the Secretary, are adequate for traffic shall not be considered needed improvements.

PRELIMINARY STATEMENT OF PROPOSED ASSIGNMENT OF APPORTIONMENT

SEC. 4. Each State highway department shall submit for approval to the Secretary, and through him to the Special Board for Public Works, a preliminary statement showing the proposed assignment of the State's apportionment not covered by preliminary statements heretofore approved to: (1) The Federal-aid highway system outside of municipalities; (2) extensions of the Federal-aid highway system into and through municipalities; and (3) secondary or feeder roads. This statement shall list the counties or political subdivisions in which projects to be submitted will be located. A project or projects of one or more of the defined classifications shall be provided from funds apportioned under said act of June 16, 1933, in at least 75 percent of all counties of the State and from funds apportioned under said act of June 18, 1934, in at least 50 percent of all counties of the State, unless it be shown in either case (1) that the number of counties in which need of employment exists constitutes a smaller percentage of the total, or (2) that needed and suitable road-construction projects cannot be found in that percentage of the total number of counties. In selecting counties in which projects are to be located, consideration shall be given to the relative need for employment in such counties.

DETAILED PROGRAMS OF PROPOSED CONSTRUCTION—PRIORITY OF PROJECTS

SEC. 5. Concurrently with the submission of the preliminary statement, in whole or in part, each State highway department shall submit in tabular form detailed programs of proposed construction of each of the three classes of projects enumerated in the foregoing section, indicating the county, termini, the proposed character of the work, the estimated cost, and the amount of Federal funds desired. The program of secondary or feeder roads shall be subdivided to show separately the proposed projects which are located on the designated State highway system and those which are not. These programs shall be accompanied by Federal-aid progress maps, indicating in diagrammatic form the location of projects covered by the program, their classification, and estimated cost. The three programs may be submitted independently and may be so approved in whole or in part. Excepting minor additions to programs made possible by contract costs being less than estimated costs, or by small balances otherwise available, no program will be considered for projects involving less than 25 percent of a State's apportionment.

To provide a program of projects which may be put under way at once, the initial program submitted may be for approximately 25 percent of the apportionment of June 19, 1934, and be made up of projects in one or more of the above categories.

In the selection of projects to be included in these programs priority shall be given in the following order to: (a) The closing of gaps in the Federal-aid highway system; (b) the elimination of hazards to highway traffic, such as the separation of grades at crossings, the reconstruction of existing railroad grade-crossings structures, the relocation of highways to eliminate railroad crossings, the widening of narrow bridges and roadways, the building of footpaths, the replacement of unsafe bridges, the construction of routes to avoid congested areas, and the construction of facilities to improve accessibility and the free flow of traffic; (c) the construction or reconstruction of projects of particular benefit or service to other agencies of the Government; (d) the correlating and supplementing of existing transportation facilities by road, rail, air, and water, and providing of service to freight-receiving stations, airports, and emergency landing fields; (e) the appropriate landscaping of parkways or roadsides on a reasonably extensive mileage involving not less than 1 percent of the total apportionment to each State; (f) reconstruction designed to reduce maintenance cost and decrease future State and local highway expenditures; (g) providing a large number of small projects designed to employ the maximum of human labor.

A substantial program of railroad grade-crossing eliminations and/or railroad grade-crossing protection will be required.

Any proposed undertaking of surveys, plans, and engineering investigations of projects for future construction will be programmed under the general category of "highway planning projects", and an allotment not exceeding 1½ per-

cent of the amount apportioned to any State by the Secretary's certificate of June 19, 1934, may be authorized for such projects.

The Secretary and the Board reserve the right to require the construction of roads desired by the Federal Coordinator of Transportation and the Interstate Commerce Commission to provide adequate year-round highway service in replacement of branch-line railroad service abandoned or proposed to be abandoned and such other projects as in the judgment of the Secretary are necessary to serve Federal establishments or activities.

SURVEYS, PLANS, AND SPECIFICATIONS—PAYMENT OF ENGINEERING COSTS

SEC. 6. Surveys and plans, specifications, and estimates for all projects in each State shall be prepared under the immediate direction of the State highway department, and the construction involved shall be under the immediate supervision of the State highway department. Funds apportioned shall not be available for the payment of any portion of the cost of surveys and plans undertaken prior to the approval of the act of June 16, 1933. Payment will be made of the actual expenditures for surveys and plans on Public Works highway projects and Public Works municipal highway projects only upon a showing by the State that the revenues available to the State for such purposes are insufficient to pay such costs. Payment may be made of the actual cost of surveys and plans for Public Works secondary highway projects. Payment may be made of the actual cost of construction and engineering and inspection on all projects. Payment for engineering services will not be made on a percentage basis.

Each State shall maintain at its own expense a State highway department having adequate powers and suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by these rules and regulations. No part of the cost of surveys, plans, and engineering supervision of construction, will be paid to any State which restricts employment of engineers on such work to residents of the State.

HIGHWAY PLANNING PROJECTS

SEC. 7. Proposed surveys, plans, and engineering investigations of projects for future construction, pursuant to section 11 of the act approved June 18, 1934 (H.R. 8781), shall be initiated by the State highway departments in the same manner as other projects by the submission of a project statement and, if approved by the Secretary, the work may be prosecuted under a project agreement. Such project agreement may be modified or reopened to provide for constructing any such project. This section does not apply to surveys, plans, or engineering investigations of projects included in the program of projects to be financed from Public Works highway funds, but only to projects included in future programs for which Federal funds have not yet been apportioned to the States.

ADVERTISEMENT AND AWARD OF CONTRACTS

SEC. 8. Before contract is awarded for any project bids shall be requested by advertisement inserted once a week for 2 weeks in such newspapers and/or other publications as will insure adequate publicity, the second insertions of such advertisement to follow 1 week after the date of the first publication thereof. The advertisement shall require the bids to be submitted and opened 2 weeks after the date of the first publication of the advertisement, and award to the lowest and best bidder shall be made within a reasonable time after the opening of the bids.

The procedure outlined in this section is designed to expedite placing projects under construction, and shall be optional with the State highway departments.

CONTRACTS AND CONSTRUCTION

SEC. 9. All contracts for the construction of highways under this act shall require the contractor to furnish all materials entering into the work, and no requirement shall be contained in any contract in any State providing price differentials for, or restricting the use of materials to, those produced within the State. No bid will be accepted from any contractor who is not complying with the applicable approved code of fair competition adopted under title I

of the National Industrial Recovery Act for the trade or industry or subdivision thereof concerned, or, if there be no such approved code of fair competition, who has not signed or is not complying with the provisions of the President's Reemployment Agreement. In case of conflict between such codes and these regulations or special provisions issued under the authority thereof, the regulations and special provisions shall govern. Materials purchased from commercial sources and incorporated in the work shall be produced under codes of fair competition approved under title I of the National Industrial Recovery Act, or under the President's Reemployment Agreement.

The invitation for bids, the award of contracts, and all contract or special provisions shall comply strictly with all of the requirements of the President's Executive Order (No. 6646) of March 14, 1934.

CONVICT LABOR

SEC. 10. No convict labor shall be employed and no materials manufactured or produced by convict labor shall be used on any project constructed under these rules and regulations.

WAGES OF LABOR

SEC. 11. (a) All contracts for the construction of highways under this act shall prescribe the minimum rates of wages, as predetermined by the State highway department, which contractors shall pay to the different classes of labor, and such minimum rates shall be stated also in the advertisement for bids and in proposals or bids which may be submitted. The wage rates so determined shall be a minimum rate for unskilled labor, a minimum rate for labor, intermediate grade, and a minimum rate for skilled labor. The classification of labor employed on highway work into the three classes mentioned shall be in accordance with instructions issued by the Bureau of Public Roads. Such wages shall be just and reasonable compensation sufficient to provide, for the hours of labor as limited, a standard of living in decency and comfort.

(b) All contracts for the construction of projects under this act shall require that the wages of all labor shall be paid in legal tender of the United States. This condition will be considered satisfied if payment is made by a negotiable check, on a solvent bank, which may be readily cashed by the employee in the immediate community for the full amount, without discount or collection charges of any kind. All contracts for the construction of projects under this act shall contain a provision that no deduction from the wages of any laborer shall be allowed on account of goods purchased or obligations incurred in any commissary or store owned, leased, or otherwise controlled by the contractor. Obligations so incurred shall be subject to collection only in the same manner in which obligations incurred in the ordinary course of business are collectible.

PREFERENCE IN EMPLOYMENT OF LABOR

SEC. 12. Contracts for all projects under this act shall contain stipulations that in the employment of labor preference shall be given, (1) to ex-service men with dependents, who are bona fide residents of the political subdivision and/or county in which the work is to be performed; (2) to citizens of the United States and aliens who have declared their intention of becoming citizens, who are bona fide residents of the political subdivision and/or county in which the work is to be performed; (3) to other ex-service men with dependents, who are bona fide residents of the State in which the work is to be performed; and (4) to citizens of the United States and aliens who have declared their intention of becoming citizens, who are bona fide residents of the State in which the work is to be performed: *Provided*, That these preferences shall apply only where such labor is available and qualified to perform the work to which the employment relates.

HOURS OF LABOR

SEC. 13. Contracts for all projects under this act shall contain a stipulation that (except in executive, administrative, and supervisory positions), so far as practicable and feasible, no individual shall be permitted to work more than 30 hours in any one week. This requirement shall be construed, (a) to permit working time lost because of inclement weather or unavoidable delays during the period of employment in any one week, to be made up in the succeeding week

or weeks of the same calendar month; and (b) to permit a limitation of not more than 130 hours' work in any one calendar month to be substituted in the contract for the requirement of not more than 30 hours' work in any one week on projects in localities where a sufficient amount of labor is not available in the immediate vicinity of the work and unemployment has been absorbed in the area of the work. It shall not be considered practicable and feasible to apply either of these limitations to work located at points so remote and so inaccessible that camps are necessary for the housing and boarding of all of the labor employed on the work, as determined by the State highway department with the approval of the district engineer of the Bureau of Public Roads and the Director of the United States Employment Service prior to advertisement: *Provided, however,* That on all such isolated projects no individual shall be permitted to work more than 8 hours in any one day or more than 40 hours in any one week.

HUMAN LABOR IN LIEU OF MACHINERY

SEC. 14. In order to give effect to the provisions of this act it will be required that the maximum of human labor be used in lieu of machinery wherever practicable and consistent with sound economy and public advantage.

CERTIFIED PAY ROLLS TO BE FURNISHED

SEC. 15. The specifications for each project shall contain special provisions which shall be in conformity with instructions issued by the Bureau of Public Roads for carrying into effect the stipulations required by these rules and regulations, which provisions shall include a requirement that the contractor shall promptly furnish to the State highway department copies of each pay roll certified under oath by the contractor or his authorized representative. Such copies shall be available for inspection by the Secretary and the Special Board for Public Works, or their authorized representatives.

FUNDS MAY BE USED TO MATCH FEDERAL-AID FUNDS

SEC. 16. Public Works highway funds apportioned to the State highway departments under the act of June 18, 1934, for the emergency construction of highways may be used in lieu of State funds to match unobligated balances of apportionments heretofore made of regular Federal-aid authorizations, and such regular Federal aid, so matched, may be used to the maximum extent legally permissible in the construction and reconstruction of projects on the Federal-aid highway system.

DESIGNATION OF EMPLOYMENT AGENCIES

SEC. 17. All contracts for work to be done under these regulations shall provide that labor required for such projects and appropriately to be secured through local employment services shall be selected from qualified workers referred by employment agencies designated by the United States Employment Service and in accordance with instructions issued.

SUBLETTING OR SUBCONTRACTING

SEC. 18. All contracts for projects under this act shall contain suitable stipulations designed to insure that not less than 80 percent of the work embraced in the contract, exclusive of items not commonly found in contracts for similar work, or which require highly specialized knowledge, craftsmanship, and/or equipment not ordinarily available in contracting organizations which perform work of the character embraced in the contract, shall be performed by the contractor with his own organization: *Provided,* That a procedure may be approved whereby a contractor who states in his proposal a particular item or items which he proposes to sublet, and names the subcontractor to whom he proposes to sublet such work, may, if such item or items do not constitute the major item or items of the contract, have such work performed by the subcontractor named notwithstanding the above limitation.

USE OF DOMESTIC MATERIALS

SEC. 19. All contracts for projects under this act shall provide that in the performance of the work the contractor, subcontractors, material producers, or suppliers shall use only such unmanufactured articles, materials, and supplies

as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, unless articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality: *Provided, however,* That if a State highway department shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement, or that it would unreasonably increase the cost, an exception, with the approval of the Bureau of Public Roads, shall be noted in the specifications as to those particular articles, materials, or supplies, and a public record shall be made of the findings which justified the exception.

DIRECT LABOR OR FORCE ACCOUNT PROJECTS

SEC. 20. Any work done by direct labor or force account under this act shall be subject to these rules and regulations. All materials used on such work must comply with approved specifications and be purchased under competitive bids, except that for minor quantities of materials, which may be obtained locally from a number of independent sources, the receipt by the State of letter quotations from not less than three local dealers will be considered as sufficient means to insure economy and efficiency in the corresponding expenditure of funds. Published advertisements shall be employed in the purchase of any large quantities of materials.

APPROVAL OF PLANS BY DISTRICT ENGINEER

SEC. 21. When, in the opinion of the district engineer of the Bureau of Public Roads, a State shall have filed a complete project statement for a project and complete plans, specifications, and estimates therefor, or for any part thereof, the district engineer may authorize advertisement of such project, or of such part thereof, and/or may recommend approval of such plans, specifications, and estimates, but shall not concur in the award of any contract until after the project statement has been approved. No contract for any such project, or part thereof, shall be entered into or award therefor made by any State without prior concurrence in such action by the district engineer of the Bureau of Public Roads. Approval will not be given to any procedure or requirement designed to prevent the award of contracts to qualified contractors nonresident of the State in which the work is located.

MAINTENANCE OF SECONDARY OR FEEDER ROAD PROJECTS

SEC. 22. Project agreements for secondary- or feeder-road projects shall provide for the maintenance of such projects by the State where the law permits the State to undertake such maintenance; otherwise the State shall submit, in the form prescribed by the Secretary, an agreement with the county or other political subdivision for such maintenance.

MAINTENANCE OF EXTENSIONS THROUGH MUNICIPALITIES

SEC. 23. Project agreements for projects on extensions of the Federal-aid highway system into and through municipalities shall provide for the maintenance of such projects by the State where the law permits the State to undertake such maintenance; otherwise the State shall submit in the form prescribed by the Secretary, an agreement with the municipality or other political subdivision for such maintenance.

TRAFFIC SIGNS AND SIGNALS

SEC. 24. The code of highway signs, signals, and markings approved by the American Association of State Highway Officials is hereby approved and adopted for all projects constructed with Public Works highway funds. All warning and directional signs now or hereafter erected on such projects whether paid for from Federal or other funds shall be in accordance with such approved code.

PAYMENTS TO STATES

SEC. 25. No payments will be made to any State on account of work performed on any project which has not been done in accordance with these rules and regulations and the special provisions issued thereunder.

VIOLATION OF RULES AND REGULATIONS

SEC. 26. Any contractor who deliberately violates the spirit and intent of these rules and regulations or the special provisions issued thereunder shall not be eligible to bid upon any further work involving the use of Public Works highway funds.

DIVERSION OF GASOLINE AND MOTOR-VEHICLE TAXES—REDUCTION OF APPORTIONMENT

SEC. 27. As soon as practicable after the promulgation of these rules and regulations, the Secretary shall determine, as of June 18, 1934, the legal requirements of the use for highway purposes of State motor-vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators in the various States, or for the retirement of bonds for the payment of which such revenues have been pledged. If he shall find at any time that a lesser amount is to be applied to such highway purposes by any State than was provided by the laws of such State on June 18, 1934, he shall take such steps as may be necessary to comply with section 12 of the act of June 18, 1934 (H.R. 8781), by reducing the apportionment to such State by one-third of the amount to which it otherwise would be entitled in accordance with regulations to be issued.

APPLICATION OF REGULATIONS

SEC. 28. These rules and regulations shall apply to U.S. Public Works N.R.H. projects, U.S. Public Works N.R.M. projects and U.S. Public Works N.R.S. projects, as defined in section 1 hereof, shall take effect upon approval, and shall supersede the rules and regulations promulgated June 23, 1933, and all amendments thereto, for carrying out the provisions of section 204 of title II—Public Works and Construction Projects—of the National Industrial Recovery Act.

